

EXHIBIT 5

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE PLASTICS ADDITIVES
ANTITRUST LITIGATION

:
: CIVIL ACTION
:
: NO. 03-2038
:

ORDER

AND NOW, this 17th day of February 2006, upon consideration of plaintiffs' motion for authorization to use a portion of the settlement fund to pay common litigation expenses (Doc. No. 249), it is hereby ORDERED that plaintiffs' motion (Doc. No. 249) is GRANTED. It is hereby further ORDERED that plaintiffs' lead counsel are authorized to withdraw \$750,000 of the settlement proceeds¹ for use in paying past, present, or future common litigation expenses reasonably incurred by plaintiffs in the prosecution of this class action, subject to an accounting to the Court at the conclusion of the class action.

This Court grants plaintiffs' motion as unopposed. Loc. R. Civ. P. 7.1(c).² Furthermore, assuming *arguendo* that defendants opposed plaintiffs' motion, this Court nonetheless would grant plaintiffs' motion on its merits. See, e.g., In re Microcrystalline Cellulose Antitrust Litig., Master File No. 01-CV-111 (E.D. Pa. June 15, 2005) (permitting class counsel to use up to \$2.5 million of settlement fund to pay litigation expenses); In re Linerboard Antitrust Litig., 292 F. Supp. 2d 631, 643 (E.D. Pa. 2003) (giving final approval to partial settlement in class action

¹These settlement proceeds total (or should in the near future total) \$10 million, plus interest. (See Pl. Br., at 1).

²Plaintiffs' motion was filed on January 30, 2005. Pursuant to Local Rule of Civil Procedure 7.1(c), in conjunction with Federal Rule of Civil Procedure 6(e), defendants' brief in opposition was due within 17 days, on January 16, 2005.

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litigation in part because settlement with less than all defendants “provides class plaintiffs with an immediate financial recovery that ensures funding to pursue the litigation against the non-settling defendants”); In re Graphite Electrodes Antitrust Litig., No. 97-CV-4182 (E.D. Pa. Nov. 20, 2002) (granting class counsel’s request to use \$450,000 from partial settlement to establish fund to pay class counsel’s pretrial and trial expenses).

BY THE COURT:

S/LEGROME D. DAVIS
Legrome D. Davis, J.